

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAN LIN,

Plaintiff,

-v-

ALEJANDRO MAYORKAS *et al.*,  
Defendants.

22-CV-3237 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff Dan Lin brings this action in the nature of mandamus against Alejandro Mayorkas *et al.* This action was filed on April 20, 2022 (Dkt. No. 1). The docket reflects that Lin has not served the defendant with the complaint. On October 7, 2022, the Court directed Plaintiff to advise the Court in writing why he has failed to serve the summons and complaint on the defendant, or, if the defendant had been served, when and in what manner such service was made. (Dkt. No. 2). The Court warned Plaintiff that if no written communication was received by October 21, 2022, the Court would dismiss the case. The Court has not received any such communication.

Rule 4(m) of the Federal Rules of Civil Procedure requires a defendant to be served with the summons and complaint within 90 days after the complaint is filed. Rule 4(m) requires that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

Accordingly, in light Plaintiff’s failure to serve the defendant and to respond to this Court’s Order, this case is DISMISSED without prejudice. The Clerk is directed to close the case.

Plaintiff is directed to serve a copy of this order by mail on the defendant.

SO ORDERED.

Dated: November 29, 2022  
New York, New York



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J. PAUL OETKEN  
United States District Judge